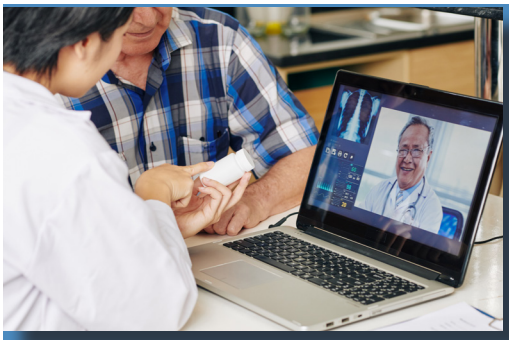

Telehealth and COVID-19: What Practitioners Need to Know

The GHPC COVID Collection

Introduction

The COVID-19 outbreak has changed the way we live and work across the United States. The health care industry, in particular, has made a significant pivot to providing services via telecommunications technologies, referred to as *telehealth* or *telemedicine*. Adoption of telehealth allows providers to limit in-person interaction and residents to follow social distancing guidelines and stay-at-home orders, while still ensuring access to care. Both the federal government and state governments quickly responded by issuing new policies and guidance to support the uptake of telehealth by providers and patients. This brief provides an overview of what telehealth is, summarizes how the changes implemented in response to the COVID-19 outbreak have facilitated its use, and compiles additional resources to answer practice-related questions.

Telehealth Definitions*

The National Consortium for Telehealth Resource Centers defines telehealth as "a collection of means or methods for enhancing health care, public health, and health education delivery and support using telecommunications technologies." *Telemedicine* is often used as a subset of telehealth specific to clinical diagnosis and treatment. Recently, *telehealth* has become a more common umbrella term to capture services and fields that may not have been traditionally considered telemedicine.

Location

- *Distant site*: Where the practitioner providing health care services is located.
- *Originating site*: Where the patient receiving services is located.
- *Presenting site*: An originating site where a patient is located with a health professional who is assisting in presenting the case to the distant-site provider.

Modality

- *Live (synchronous)*: Services provided through live, real-time video and audio connection.
- *Store-and-forward (asynchronous)*: Encounters recorded and forwarded to the distant site-provider to review at a different time.
- *Remote patient monitoring*: Technology that collects patient health data remotely and transmits it to their health care provider.
- *Mobile health*: Telehealth supported by mobile communication devices, like phones and tablets. This includes a wide array of methods such as apps or texting.

COVID-19 Policy Changes

Medicare

On March 17, 2020, in response to President Trump's public health emergency declaration, the Centers for Medicare and Medicaid Services (CMS) expanded the types of services that could be provided for Medicare beneficiaries via telehealth to include regular office visits, mental health counseling, and preventive health screenings. In addition, telehealth services can be provided to beneficiaries regardless of location; normally, patients have to be in a rural setting to be eligible for telehealth services. Information on these changes can be found here.

* Definitions adapted from Center for Connected Health Policy. (2018). Telehealth Resource Centers Framework for Defining Telehealth. Accessed at www.cchpca.org/sites/default/files/2018-10/Telehealth%20Definintion%20Framework%20for%20TRCs_0.pdf

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Additionally, in response to new provisions of the CARES Act (Pub.L. 116-136), on April 30, 2020, CMS announced several other changes to the Medicare program, including changes to its rules for telehealth services for the rest of the COVID-19 emergency. These changes include:

- Expanding the types of providers who can bill for telehealth services to include allied health professionals, such as physical, occupational, and speech therapists
- Allowing hospitals to bill for services provided remotely by hospital-based practitioners
- Allowing evaluation and management services to be provided by audio-only telephone visits in addition to by video conferencing
- Increasing payments for audio-only telephone visits between practitioners and patients to equal those for similar office visits
- Approving additional telehealth provider categories via informal guidance, rather than the rule-making process, to speed up the process of adding necessary services
- Paying for telehealth services provided by Federally Qualified Health Centers and rural health clinics

More detail on these changes to Medicare's rules for telehealth can be found here.

Other Federal Changes — Health Insurance Portability and Accountability Act and Drug Enforcement Administration

Because some of the technologies used for telehealth services may not comply with the privacy and security rules contained in the Health Insurance Portability and Accountability Act (HIPAA; Pub.L. 104-191), the U.S. Department of Health and Human Services (HHS) Office for Civil Rights, charged with HIPAA enforcement, will use its enforcement discretion and not assess penalties for HIPAA violations against providers who, in good faith, are providing telehealth services during the COVID-19 emergency. Furthermore, a provider can use any non–public-facing platform to provide telehealth services without the threat of a HIPAA penalty. For example, a provider could use popular virtual platforms, such as Zoom, WebEx, or Facebook Messenger. However, platforms such as Facebook Live and TikTok are not allowed because they are public-facing. Providers should also reference state laws and guidance, which may be more restrictive than federal allowances. More information on the relaxation of HIPAA provisions for telehealth can be found here.

Finally, because the public health emergency declaration for COVID-19 triggers the emergency provisions of the Controlled Substances Act (Pub.L. 91-513), the Drug Enforcement Administration (DEA) is allowing all Schedule II-V controlled substances to be prescribed via telehealth without a prior in-person visit so long as the telehealth communication is conducted in real time via an audiovisual, two-way interactive platform. More information on the DEA's response to COVID-19, including telehealth, can be found here.

Medicaid

Section 1135 of the Social Security Act (42 U.S.C. § 1320b-5) allows the HHS secretary to waive certain requirements for health care providers in Medicaid and the Children's Health Insurance Program[1] on a state-by-state basis during a declared national and public health emergency. In order for this option to be available to states, (1) the president of the United States must have declared a national emergency pursuant to the National Emergencies Act (50 U.S.C. § 1601 et seq.) or the Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121 et seq.) and (2) the HHS secretary must have declared a public health emergency for a geographic region that includes the state in question pursuant to the Public Health Services Act (42 U.S.C. § 201 et seq.). The declarations on March 13, 2020, by President Trump and HHS Secretary Azar satisfied these requirements for all 50 states and the District of Columbia (D.C.). Since then, all states and D.C. have applied for and received approval of an 1135 waiver for each of their Medicaid programs.

On April 2, 2020, Georgia received approval for its 1135 waiver. Georgia's waiver allows the state to more easily enroll providers in its Medicaid program and makes it easier for them to provide services. Several provisions pertain to

[1]The secretary may also waive requirements of the Medicare program pertaining to providers.

telehealth, including:

- Allowing licensed out-of-state providers to provide care during the emergency to Georgia Medicaid members and to be reimbursed, even if they are not licensed to practice in Georgia
- Allowing home health assessments to be conducted via video mediums
- Allowing hospice evaluations to be conducted via video mediums
- Allowing telehealth supervision of self-administration for individuals receiving opioid maintenance treatment and who have been allowed take-home medications due to the emergency
- Temporarily suspending the application of sanctions and penalties arising from noncompliance with HIPAA requirements, as has been done for Medicare

More information about Georgia's 1135 waiver can be found here. 1135 waivers are good for the duration of the emergency.

Appendix K to 1915(c) Home- and Community-Based Services Waivers

Georgia also received approval for an Appendix K Emergency Response Plan for three of its 1915(c) home- and community-based services (HCBS) waiver programs. HCBS programs allow those who might otherwise be institutionalized to remain in community settings for the provision of their care. Regarding telehealth, the Appendix K Emergency Response Plan will allow Georgia to permit the use of telehealth for several services provided to those with intellectual or developmental disabilities, including physical therapy, nutrition services, nursing services, and supported employment for the duration of the COVID emergency. More information on Georgia's Appendix K Emergency Response Plan can be found here.

Payment for Services

The policy shifts highlighted above are intended to relax the rules around providing telehealth services. Most are either closely or directly linked with a provider's ability to bill for these services. Billing requirements vary by payer but generally require a modifier or change in place of service to indicate that the service was provided via the telehealth modality. Below is billing guidance for Medicare and Georgia Medicaid.

Medicare Billing

A list of allowable Telehealth Medicare Billing Codes (updated April 30, 2020) can be found here.

Medicaid Billing

Providers should utilize the Georgia MMIS (Medicaid Management Information System) provider portal for the most up-to-date codes allowable via telehealth. The following guidance documents have been released by the Georgia Department of Community Health to help providers navigate the new policy changes due to the public health emergency. Additional resources, including webinars, can be found on Georgia MMIS under provider information — provider notices.

March 18, 2020: Original Guidance on Changes to Telehealth Services for Medicaid and Peach Care for Kids

March 26, 2020: Updated Guidance on Qualified Providers, Service Delivery Locations, Billing, and Verbal Consent

April 13, 2020: Clarification on Use of Modifiers and Place of Service Code

Telehealth Funding Opportunities for Providers

Federal Communications Commission COVID-19 Telehealth Program: As part of the CARES Act, the Federal Communications Commission will provide $200 million through the COVID-19 Telehealth Program for eligible health care providers. This funding can be used for telecommunication services, information services, and devices that support connected care in rural and nonrural areas. There is no deadline to apply. Funding is available until the $200 million is expended or the public health emergency has ended. More information is available here.

U.S. Department of Agriculture Distance Learning and Telemedicine Grants: The Rural Utilities Service has opened a second application window for their Distance Learning and Telemedicine Grants. These grants provide funding to improve distance learning and telemedicine services in rural areas. They can be used for the purchase of telecommunications infrastructure and equipment including interactive video equipment. The application deadline is July 13, 2020. More information is available here.

Future Considerations

All Medicare and Medicaid policy changes are applicable through the duration of the national public health emergency declaration. Without additional action or guidance from the state or federal governments, upon termination of the emergency declaration telehealth policies will revert back to those in effect prior to the COVID-19 pandemic.

Georgia's Telehealth Act (OCGA 33-24-56.4) is the core law framing regulations around telehealth provision in the state. Providers should be mindful of these features of telehealth policy once states begin transitioning out of the public health emergency:

Who can provide telemedicine services? Each licensing board provides regulations on what considerations and actions their licensees must take before providing services via telemedicine.

What services can be provided? Georgia's Telehealth Act broadly defines what services are allowed to be paid for via telehealth and defines both coverage parity and payment parity requirements for Georgia payers.

Where can those services be provided? Individual payers may determine what locations are allowable for distant and originating sites. The Georgia Department of Community Health Telemedicine Guidance defines these for Georgia Medicaid.

The Georgia Health Policy Center will continue to monitor evolving policy changes during the COVID-19 public health emergency; adoption of telehealth; and the impact of these changes on cost of care, access to care, and patient outcomes. For the past 25 years we have been guided by our commitment to connecting decision-makers with the objective research and guidance needed to make informed decisions about health policy and programs. Please reach out to us if you have any research or policy analysis needs.

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